

**MAIL TO:**

STATE OF UTAH  
DIVISION OF PURCHASING  
3150 STATE OFFICE BUILDING, CAPITOL HILL  
P.O. BOX 141061  
SALT LAKE CITY, UTAH 84114-1061  
TELEPHONE (801) 538-3026  
<http://purchasing.utah.gov>

**Invitation to Bid**Solicitation Number: **NO4053**Due Date: **01/06/04 at 2:00 P.M.**

Date Sent: December 18, 2003

Goods and services to be

**AGENCY CONTRACT -PUBLIC INVOLVEMENT/INFORMATION MANAGER****Please complete**

Company Name		Federal Tax Identification Number	
Ordering Address	City	State	Zip Code
Remittance Address (if different from ordering address)	City	State	Zip Code
Type <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	Company Contact Person		
Telephone Number (include area code)	Fax Number (include area code)		
Company's Internet Web Address	Email Address		
Discount Terms (for bid purposes, bid discounts less than 30 days will not be considered)	Days Required for Delivery After Receipt of Order (see attached for any required minimums)		
<p>The following documents are included in this solicitation: Solicitation forms, instructions and general provisions, and specifications. <u>Please review all documents carefully before completing.</u></p> <p>The undersigned certifies that the goods or services offered are produced, mined, grown, manufactured, or performed in Utah. Yes_____ No_____. If no, enter where produced, etc._____</p>			
Offeror's Authorized Representative's Signature		Date	
Type or Print Name		Position or Title	

STATE OF UTAH  
DIVISION OF PURCHASING

Invitation to Bid

Solicitation Number: NO4053

Due Date: 01/06/04

Vendor Name:

Description
AGENCY CONTRACT - PUBLIC INVOLVEMENT/INFORMATION MANAGER TO PERFORM PUBLIC INVOLVEMENT AND INFORMATION DUTIES CONNECTED WITH CONSTRUCTION ACTIVITIES ON STATE ROUTE 36, NEAR TOOEELE, UTAH, PER THE ATTACHED SPECIFICATIONS.  PLEASE ENTER TOTAL COST \$_____
<b>QUESTIONS ON SPECIFICATIONS CALL JAMES PHILLIPS AT (801) 965-3836.</b> QUESTIONS ON PURCHASING PROCESS (NOT RELATED TO SPECIFICATIONS) CALL NANCY ORTON AT (801) 538-3148. RX: 810 46000000082 COMMODITY CODE: 91503

## INVITATION TO BID - INSTRUCTION AND GENERAL PROVISIONS

**1. BID PREPARATION:** (a) All prices and notations must be in ink or typewritten. (b) Price each item separately. Unit price shall be shown and a total price shall be entered for each item bid. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing quotation. (c) Unit price will govern, if there is an error in the extension. (d) Delivery time is critical and must be adhered to as specified. (e) Wherever in this document an item is defined by using a trade name of a manufacturer and/or model number, it is intended that the words, "or equivalent" apply. "Or equivalent" means any other brand that is equal in use, quality, economy and performance to the brand listed as determined by the Division of Purchasing & General Services (DIVISION). If the vendor lists a trade name and/or catalog number in the bid, the DIVISION will assume the item meets the specifications unless the bid clearly states it is an alternate, and describes specifically how it differs from the item specified. All bids must include complete manufacturer's descriptive literature if quoting an equivalent product. All products are to be of new, unused condition, unless otherwise requested in this solicitation. (f) By signing the bid the vendor certifies that all of the information provided is accurate, that they are willing and able to furnish the item(s) specified, and that prices quoted are correct. (g) This bid may not be withdrawn for a period of 60 days from bid due date.

**2. SUBMITTING THE BID:** (a) The bid must be signed in ink, sealed in a properly-addressed envelope, and either mailed or delivered to the DIVISION OF PURCHASING, 3150 State Office Building, Capitol Hill, Salt Lake City, UT 84114-1061 by the "Due Date and Time." **The "Bid Number" and "Due Date" must appear on the outside of the envelope.** (b) Bids, modifications, or corrections received after the closing time on the "Due Date" will be considered late and handled in accordance with the Utah Procurement Rules, section R33-3-109. (c) **Your bid will be considered only if it is submitted on the forms provided by the state. Facsimile transmission of bids to DIVISION will not be considered.** (d) All prices quoted must be both F.O.B. Origin per paragraph 1.(c) and F.O.B. Destination. Additional charges including but not limited to delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose must be included in the bid for consideration and approval by the DIVISION. Upon award of the contract, the shipping terms will be F.O.B. Destination, Freight Prepaid with freight charges to be added to the invoice unless otherwise specified by the DIVISION.

**3. SOLICITATION AMENDMENTS:** All changes to this solicitation will be made through written addendum only. Bidders are cautioned not to consider verbal modifications.

**4. PROPRIETARY INFORMATION:** Suppliers are required to mark any specific information contained in their bid which is not to be disclosed to the public or used for purposes other than the evaluation of the bid. Each request for nondisclosure must be accompanied by a specific justification explaining why the information is to be protected. Pricing and service elements of any bid will not to be considered proprietary. Bids submitted may to be reviewed and evaluated by any persons at the discretion of the state.

**5. SAMPLES:** Samples of item(s) specified in this bid, when required by DIVISION, must to be furnished free of charge to DIVISION. Any item not destroyed by tests may, upon request made at the time the sample is furnished, to be returned at the bidder's expense.

**6. WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah applies to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed

upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgement to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

**7. DIVISION APPROVAL:** Purchase orders placed, or contracts written, with the state of Utah, as a result of this bid, will not to be legally binding without the written approval of the director of the DIVISION.

**8. AWARD OF CONTRACT:** (a) the contract will to be awarded with reasonable promptness, by written notice, to the lowest responsible bidder that meets the specifications. Consideration will to be given to the quality of the product(s) to be supplied, conformity to the specifications, the purpose for which required, delivery time required, discount terms and other criteria set forth in this invitation to bid. (b) The bids are opened publicly in the presence of one or more witnesses. the name of each bidder, and the amount of the bid is recorded. Each bid, and the record, is open to public inspection. (c) The DIVISION may accept any item or group of items, or overall low bid. the DIVISION has the right to cancel this invitation to bid at any time prior to the award of contract. (d) The DIVISION can reject any and all bids. And it can waive any informality, or technicality in any bid received, if the DIVISION believes it would serve the best interest of the State. (e) Before, or after, the award of a contract the DIVISION has the right to inspect the bidder's premises and all business records to determine the holder's ability to meet contract requirements. (f) DIVISION does not guarantee to make any purchase under awarded contract(s). Estimated quantities are for bidding purposes only, and not to be interpreted as a guarantee to purchase any amount. (g) Utah has a reciprocal preference law which will to be applied against bidders bidding products or services produced in states which discriminate against Utah products. For details see Section 63-56 20.5 -20.6, Utah Code Annotated.

**9. ANTI-DISCRIMINATION ACT:** The bidder agrees to abide by the provisions of the Utah Anti-discrimination Act, Title 34 Chapter 35, U.C.A. 1953, as amended, and Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities. Also bidder agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace. Vendor must include this provision in every subcontract or purchase order relating to purchases by the State of Utah to insure that the subcontractors and vendors are bound by this provision.

**10. DEBARMENT:** The CONTRACTOR certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the CONTRACTOR cannot certify this statement, attach a written explanation for review by the STATE.

**11. GOVERNING LAWS AND REGULATIONS:** All state purchases are subject to the Utah Procurement Code, Title 63 Chapter 56 U.C.A. 1953, as amended, and the Procurement Regulations as adopted by the Utah State Procurement Policy Board. These are available on the Internet at [www.purchasing.utah.gov](http://www.purchasing.utah.gov)

(Revision 14 Mar 2003 - IFB Instructions)

**REQUEST FOR BID**  
**Public Information/Involvement Manager**  
**S.R. 36, Mills Junction to Tooele City**  
**NH-0036(7)56, SP-0036(14)56**

**SOLICITATION # NO 4053**

**PROJECT BACKGROUND AND DESCRIPTION**

The Utah Department of Transportation (UDOT) is in the second phase of a two-phase road-widening construction project on S.R.36 in Tooele County. The first phase of the project, completed in 2001, extended from I-80 to Mills Junction. This phase will stretch from Mills Junction to Tooele City, a length of approximately 7.1 miles. The roadway runs through farmland and rural residential areas, including the small, unincorporated town of Erda. Plans call for the road to be widened to two lanes in each direction with a center turn lane and widened shoulders. New traffic lights are planned for three locations along the corridor including the rebuilding of the lighting at an additional intersection. Also included in construction is the installation of a mountable, raised median running through Erda.

Right-of-way activities are currently underway for the project, and road widening will begin early next spring. Much of the construction will be complete by the end of fall 2004, with the remainder to be concluded in 2005. S.R. 36 is the only major route in and out of Tooele City, and as such its importance is highlighted for commuters, residents and businesses located adjacent to it. The project has been a long time coming and will be welcomed by Tooele County residents and local officials. However, alignment and right-of-way issues during the Environmental Assessment portion of the project have created hard feelings for some stakeholders that will have to be dealt with using sensitivity.

**SCOPE OF WORK**

The Public Involvement/Information Manager (PIM) will perform public involvement and information duties connected with construction activities on S.R. 36, Mills Junction to Tooele City, prior to and for the **duration of the project, a time period anticipated to be 20 months (mid-January, 2004, through the end of November 2005)**. The level of effort required to complete this project will require a **minimum of 1500 hours, to a maximum not-to-exceed 2000 hours**. The PIM contractor will coordinate all information and public involvement activities with the construction contractor, the UDOT Resident Engineer and the Region Two Public Involvement Coordinator to facilitate communication and ensure smooth functioning of those activities on the project.

The primary contact for the PIM contractor will be the Resident Engineer with the Project Manager, the Region Public Involvement Coordinator, and the construction contractor's Public Involvement Coordinator as secondary contacts. PIM activities for this project will begin five (5) workdays after notification of intent to award the contract to the low bid, which complies with the provisions of this bid. At that time, it will be necessary for the PIM contractor to begin the process of contacting corridor businesses and residents, and other key project stakeholders to facilitate timely distribution of project information.

**QUALIFICATIONS**

Due to the nature of the work involved, we will only consider proposals from individuals or companies that meet the following minimum requirements:

- Must have a thorough understanding of basic public relations principals and extensive experience utilizing those principals in successful PR campaigns and activities
- Must have experience working on government projects in a public relations or public involvement role

- Must have experience working with construction contractors and an understanding of the roadway construction process

Briefly outline your experience in these areas and list contact information for at least three professional references that can verify your experience.

### **COMPENSATION**

Compensation will be payable in regular intervals beginning with delivery of a work plan outlining, at minimum, the provisions of this bid and based on invoices submitted to the Region Two Administrator by the PIM contractor.

### **BID SUBMISSION**

Please submit a bid detailing the total cost for the services outlined in this document and your plan for accomplishing those services. The cost of supplies, materials development and materials production connected with the services outlined in this document should be included in the bid (see Materials Detail section). UDOT will reimburse the PIM contractor for postage. Following award of the bid, the requirements for regularly scheduled payments during the course of the contract will be negotiated.

### **SCOPE OF WORK DETAIL:**

- **Develop a Public Involvement Plan** for this project using UDOT's Public Involvement Plan template.
- **Coordinate with the construction contractor and UDOT Resident Engineer** to stay up-to-date on construction activities, schedules and Maintenance of Traffic plans.
  - Attend, *at minimum*, every other weekly construction meeting to identify and resolve stakeholder issues. Coordinate daily during construction with the construction contractor and/or UDOT Resident Engineer to stay informed of construction activities.
- **Meet personally with residents and businesses along corridor** to discuss construction activities, gather comments and address concerns. Initiate and maintain communications with key stakeholders (including identified Tooele City and County officials) for the duration of the project, through personal visits, by telephone, or by email.
  - Coordinate with the construction contractor, UDOT Resident Engineer and Region Public Involvement Coordinator to troubleshoot customer complaints.
- **Develop and maintain comprehensive mailing and contact lists** for use in distributing project materials and informing stakeholders.
- **All materials prepared for public distribution** and any production costs must be pre-approved and authorized by the Region Public Involvement Coordinator prior to production and distribution.
- **Administer and tally pre - and post-construction surveys** based on UDOT Region Two's pre- and post-construction survey "templates." A pre-construction survey, to determine public opinion entering construction in order to modify public involvement procedures and identify potential public involvement/information (PI) problem areas. A post-construction survey, to determine the effectiveness of PI and construction contractor performance during construction.
  - Tally the results of the pre-construction survey

- **Organize and facilitate a Community Coordination Team (CCT)** that will carry information from the committee to their neighbors regarding construction activities, and provide feedback from the community to the committee, the construction contractor and UDOT about construction activities.
  - Assemble team members; schedule, organize, advertise and conduct regularly scheduled meetings; and report on and compile an administrative record of meetings.
- **Provide construction updates.**
  - Work with the construction contractor to compile construction update reports outlining scheduled construction activities at least one week in advance and distributed each week to the Region Public Involvement Coordinator and others identified during the course of the project.
  - Provide updates of construction activities that impact traffic or access to residences and/or businesses, to the Region Public Involvement Coordinator, directly impacted stakeholders who request notification, and other stakeholders identified by UDOT or the construction contractor.
  - Compile and package project-related information for distribution to media through the Region Public Involvement Coordinator and UDOT Community and Media Relations.
- **Organize and attend public activities and meetings.**
  - Schedule, organize, advertise and facilitate one “meet the contractor” open house in coordination with UDOT and the construction contractor.
  - Organize and facilitate a construction-safety related activity or assembly with elementary schools close to the corridor, to highlight safety concerns and inform students and their parents about construction.
  - Schedule, organize, advertise, facilitate and provide a written report of other meetings (non CCT) identified as needed during the course of the project.
  - Attend neighborhood, community, local government and other meetings to provide project information and record stakeholder comments and concerns.
- **Prepare a construction information flier template** to be completed and distributed to residents and businesses along the corridor to inform them prior to the beginning of construction activities in their area.
- **Prepare, produce and distribute, at minimum, four newsletters** to inform project stakeholders prior to, during, and at the end of construction. The newsletters will outline anticipated construction activities and work schedules, explain the construction activities in everyday terms, and include additional information that will improve the construction experience for stakeholders.
- **Develop and maintain an S.R. 36 construction Website**, in compliance with UDOT Website standards, that gives project background, posts information about current and upcoming construction schedules, lists and answers frequently asked questions, and includes contact information.
- **Provide a dedicated contact phone with a message machine** for stakeholders, UDOT and construction contractor contacts during the course of the project.
  - May be a cell phone
  - Distribute the phone number to all project contacts, the UDOT Communications Office, construction contractor, UDOT Resident Engineer, Region Two Public Involvement Coordinator and Project Manager.
  - Follow-up on all stakeholder concerns within 24 hrs.

- **Provide project reports.**
  - Compile and submit a detailed report with each invoice to the Project Manager and Region Public Involvement Coordinator that includes at minimum:
    - An overview of public information and public involvement activities
    - A record of stakeholder contacts
    - A record of stakeholder questions and concerns
    - A record of responses and resolutions to stakeholder questions and concerns
  - Compile and distribute a **post-project report** to the Project Manager and Region Public Involvement Coordinator that includes at minimum:
    - An overview of public information and public involvement activities from the beginning to the end of the project.
    - An analysis of what worked well and what did not work well concerning public information and public involvement during the project.
    - A database (in Microsoft Access format) of project contacts including names, addresses, phone numbers and email addresses of project stakeholders.
- **Other public information and public involvement duties** as needed and requested by the UDOT Resident Engineer, Project Manager or Region Public Involvement Coordinator.

#### **MATERIALS DETAIL:**

- **Pre- and Post-Construction Surveys**
  - 2 surveys
  - Print 500 each
  - 2-sided with cover letter
  - Black and white
  - Containers for survey distribution (i.e.: clear plastic bags or large manila envelopes)
- **Newsletters**
  - 4 newsletter editions—develop and print
    - Include layout and 2 drafts
  - Print 500 copies each on quality paper stock
  - 2 sided w/ mailer
  - 4-color with photographs
- **Fliers**
  - Print informational fliers using template developed and modifying project information as needed
  - Print 500 copies (at minimum)
  - 1-sided
  - Black and white on colored paper
- **Business/Project Contact Cards**
  - Print 500 cards
  - 1-sided on card stock
  - Black and white
- **Additional Materials—**
  - Meeting notifications; collateral including FAQs, fact sheets, etc.
  - Print approx. 1000 pages total with no special paper requirements
  - 1 or 2 sided, multiple pages as needed
  - Black and white

## ATTACHMENT A: STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due

from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.

14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.
16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution. and Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages, if liquidated damages are listed in the contract; 4. Suspend Contractor from receiving future solicitations.

23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be: 1. State Standard Terms and Conditions; 2. State Special Terms and Conditions; 3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)